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March 22, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Deployment of Wireline Services Offering Advanced
Telecommunications Capability, CC Docket No. 98-147

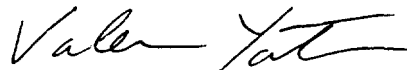
Implementation of the Local Competition Provisions in the Telecommunications Act
of 1996, CC Docket No. 96-98

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding are an original and nine copies of the comments of NorthPoint Communications, Inc. in reply to the petitions for reconsideration and clarification filed on February 9, 2000.

Please date stamp the additional copy provided herewith for that purpose and return the same to the bearer. Thank you for your assistance.

Sincerely,



Valerie Yates

Enclosures

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

MAR 22 2000

In the Matters of)	
)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability and)	
Implementation of the Local Competition)	
Provision of the Telecommunications Act of)	CC Docket No. 96-98
1996)	

**REPLY COMMENTS OF
NORTHPOINT COMMUNICATIONS, INC.**

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Competition Provision of the)	CC Docket No. 96-98
Telecommunications Act of 1996)	

**REPLY COMMENTS OF
NORTHPOINT COMMUNICATIONS, INC.**

NorthPoint Communications, Inc. (NorthPoint) submits these comments in reply to the petitions for reconsideration and clarification, filed on February 9, 2000, of the Federal Communications Commission's (Commission's) Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98.¹

I. INTRODUCTION AND SUMMARY

The Commission's *Line Sharing Order*, among other things, requires incumbent local exchange carriers (LECs) to unbundle and provide to a requesting competitive LEC, as a network element, access to the high-frequency portion of a local loop that the incumbent LEC uses to provide basic voice service.² Requiring an incumbent LEC to "share" a local loop with a competitive LEC is intended "to promote the availability of competitive broadband x[Digital

¹ Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98*, FCC 99-355 (rel. Dec. 9, 1999) ("*Line Sharing Order*").

Subscriber Line]-based services, especially to residential and small business customers.”³ As a leading provider of Digital Subscriber Line (DSL) services in markets throughout the United States, NorthPoint has a vital interest in the effective implementation of the Commission’s Order.

As discussed below, NorthPoint supports the petitions filed by AT&T Corp. (AT&T) and MCI WORLDCOM, Inc. (MCI WorldCom). They ask the Commission to clarify that incumbent LECs are required to cooperate with competitive LECs that have entered into a voluntary line-sharing agreement to provide voice and DSL-based services. This clarification is necessary to ensure that consumers have the broadest choice of competitive offerings from both voice and DSL service providers and to prevent incumbent LEC efforts to convert line sharing into an exclusive competitive advantage accruing only to the incumbent. NorthPoint also recommends that the Commission deny the requests of incumbent LECs for reconsideration of various aspects of the *Line Sharing Order* because the proposed modifications would slow unnecessarily the competitive deployment of advanced services.

II. THE *LINE SHARING ORDER* REQUIRES INCUMBENT LECs TO PERMIT COMPETITIVE LECs TO OFFER VOICE AND HIGH-SPEED DATA SERVICES OVER A SHARED UNBUNDLED LOOP

The Commission’s *Line Sharing Order* expressly contemplates that two competitive LECs may enter into a voluntary line-sharing agreement to provide voice and DSL-service over an unbundled loop.⁴ Indeed, the Commission encouraged competitive LECs that offer analog

² *Line Sharing Order* at ¶ 4.

³ *Line Sharing Order* at ¶¶ 4, 75.

⁴ See *Line Sharing Order* at n. 163 (“if the voice customer switches its voice provider from the incumbent LEC to a competitive LEC that provides voice services, the xDSL-providing

voice service to partner with competitive LECs “offering data services to share unbundled loops obtained from incumbent LECs. . . .”⁵ Nonetheless, as the petitions of AT&T and MCI WorldCom make clear, incumbent LECs currently refuse to permit line sharing when the voice service on that line is provided by a competitive LEC, and not the incumbent LEC.

The petitions of AT&T and MCI WorldCom properly focus on the incumbent LECs refusal to permit voluntary line sharing arrangements between competitive LECs where the voice competitive LEC seeks to offer service either by rebundling network elements (so-called “UNE platform”) or by reselling an incumbent LEC’s basic exchange service. These are the sources of the vast majority of voice competition in local markets today. In NorthPoint’s experience, however, incumbent LECs also hamper the efforts of facilities-based competitive LECs to offer voice and data services over a shared line.

Specifically, incumbent LECs refuse to deliver the lower frequency portion of the line to a voice competitive LEC and the higher frequency portion to a DSL competitive LEC. As a result, such competitive LECs can only provide their services over a shared line if they both maintain co-located facilities in the same central office and establish a cross-connection between their facilities. This process is cumbersome and can take months to complete, since it typically requires the involvement of the incumbent LEC. Moreover, it also complicates and hinders the ability of end users to change either voice or DSL providers while retaining the other, because a new cross connection must be established between the new and existing competitive LECs. In contrast, if an incumbent LEC split the traffic and delivered the high and low frequency portions

competitive LEC may enter into a voluntary line-sharing agreement with the voice-providing competitive LEC.”)

⁵ *Line Sharing Order* at ¶ 53.

of the loop separately to the two competitive LECs, a consumer's selection of a new voice or DSL provider could be implemented quickly.

Further, it bears emphasis that the remedy discussed in the preceding paragraph *only* is available if the competitive LECs both are co-located in the central office.⁶ If, as more typically is the case, a competitive LEC offers voice service through a UNE platform or by reselling an incumbent's basic exchange service, the incumbent LECs currently prevent a customer who wishes to subscribe to those competitive voice offerings from obtaining DSL service over the same line from anyone – incumbent LEC, voice competitive LEC or DSL competitive LEC. By prohibiting competitive LECs that seek to enter through the use of unbundled elements or resale from offering DSL over the same line, the incumbent LECs discriminate against the two methods of entry that account for most of the competition in voice services that incumbents face today. As explained below, claims by incumbent LECs that the *Line Sharing Order* requires, or even permits, them to engage in such discriminatory practices and to preclude voluntary line sharing arrangements between DSL competitive LECs and voice competitive LECs are meritless and should be rejected summarily.

The Commission stated in the *Line Sharing Order* that: "incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform."⁷ Incumbent LECs have relied on this statement in support of their claim that they are not required to make access to the high-frequency portion of a

⁶ We note that the continued availability of this method of providing voice and DSL over a shared line by two competitive LECs may be in doubt in light of the recent decision of the Court of Appeals for the District of Columbia Circuit. *See GTE Svc. Corp. v FCC*, No. 99-1176, (D.C. Cir. Mar. 17, 2000) (vacating and remanding the *Advanced Services First Report and Order* "insofar as it embraces unduly broad definitions of 'necessary' and 'physical collocation'").

⁷ *Line Sharing Order* at ¶ 72.

local loop available to a competitive LEC if the incumbent LEC does not provide voice service over the low-frequency portion of the loop.⁸ In view of the fact that the Commission at other places in the order explicitly encourages voluntary line sharing arrangements between DSL and voice competitive LECs, the incumbent LECs' reading of the *Line Sharing Order* is plainly wrong.

The Commission intended, in the passage cited by the incumbent LECs, to make clear that once a competitive LEC obtains access to a line as an unbundled loop, an incumbent LEC may not offer access to the higher frequencies of that line to a DSL competitive LEC. That is, the requirement that the incumbent LEC share a loop with a DSL competitive LEC does not extend to cases in which it no longer provides voice-grade service over the low-frequency portion of the loop.⁹ Requiring a competitive LEC that offers voice service over an unbundled loop to permit another competitive LEC to offer DSL service over the high frequency portion of the same line would be flatly inconsistent with the voice provider's right to exclusive use of the entire loop.¹⁰ In effect, it would amount to an imposition of a section 251(c)(3) unbundling requirement on a competitive LEC. Thus, the cited paragraph, taken as a whole, merely underscores the Commission's conclusion that competitive LECs offering voice service are not required to share their lines with DSL competitive LECs. That conclusion, however, does not support a claim that

⁸ AT&T at 2, 10; MCI WorldCom at 5.

⁹ In the next sentence of the paragraph cited by the incumbent LECs, the Commission observed that, "[i]n that circumstance the incumbent is no longer the voice provider." *Line Sharing Order* at ¶ 72.

¹⁰ The Commission found that requesting carriers are "entitled, at their option, to exclusive use of the entire unbundled loop facility." *Line Sharing Order* at ¶ 18 (internal quotes omitted).

incumbent LECs are entitled to preclude competitive LECs from entering into voluntary line-sharing agreements.¹¹

The purpose and effect of the incumbent LECs' interpretation of the *Line Sharing Order* are the same as their earlier opposition to the provision of line sharing as an unbundled network element: to obtain an anticompetitive advantage by denying competitive LECs the efficiencies of offering DSL-based services over the same loop that voice service is offered. This position amounts to unlawful discrimination against competitive LECs that rely on the UNE platform method of entry and imposes a "competition penalty" on any consumer who chooses a voice service (provided through a UNE platform or resale) offered by any carrier other than the monopoly. Indeed, the incumbent LECs' interpretation of the line sharing order means that consumers can only enjoy a variety of DSL competitive offerings if they refrain from choosing an alternative to the incumbent for voice service. By prohibiting voice competitive LECs from entering into voluntary arrangements with DSL competitive LECs to offer high speed Internet access over the competitive LEC's unbundled loop, the incumbent LECs in effect convert line sharing into an exclusive competitive advantage accruing only to the incumbent, clearly not the result intended.

Incumbent LECs have attempted to bolster their misreading of the Commission's Order with claims of technical and operational obstacles to permitting a competitive LEC to offer voice

¹¹ Incumbent LECs may contend that while they will not "preclude" voluntary arrangements, they should not be required to "facilitate" them. Such a contention ignores the fact that only the incumbent LEC has technicians who can perform wiring functions in the central office. Thus, if incumbent LECs were to state that they would "permit" competitive LECs to split the loop and wire customers to a UNE platform and a DSL competitive LEC cage, it would be an empty gesture. Since incumbent LECs do not permit competitive LECs to obtain access to the main distribution frame and other key areas of the central office, competitive LECs would not be able to perform the tasks necessary to establish the cross connects.

and DSL-based services over an unbundled loop.¹² These claims are hardly surprising, since incumbent LECs throughout this proceeding have asserted repeatedly that technical and operational problems made line sharing infeasible. The FCC squarely rejected those arguments in the *Line Sharing Order* and should do so here as well.¹³ Indeed, perhaps the most telling rebuttal of the incumbent LECs' claims is the instance described in AT&T's Petition in which SBC provided access to an unbundled loop to AT&T for voice service while SBC continued to furnish its DSL service to the customer over the higher frequencies of the same loop.¹⁴

The text of the *Line Sharing Order* and its overriding policy goals clearly support the positions of AT&T and MCI WorldCom that the *Line Sharing Order* requires an incumbent LEC to cooperate with a competitive LEC that seeks to provide voice service over an unbundled loop using the UNE platform and has entered into a voluntary agreement with another competitive LEC to provide DSL-based data services over that loop. NorthPoint urges the Commission to send an unambiguous message to incumbent LECs that it will not tolerate their ongoing, transparent attempts to use the regulatory process to achieve a competitive advantage over their rivals in the local telecommunications market.

The Commission, therefore, promptly should correct this obvious misreading of the *Line Sharing Order* and direct the incumbent LECs to take whatever steps are necessary to enable competitive LECs to offer DSL-based services over unbundled local loops that those LECs use to offer voice-grade services. In particular, the Commission must make clear that in any case in which two competitive LECs elect to provide voice and data services over a shared line pursuant

¹² See AT&T at 8.

¹³ *Line Sharing Order* at ¶ 63 ("there exists no *bona fide* issue of technical feasibility with regard to line sharing").

¹⁴ AT&T at 6.

to a voluntary agreement, the incumbent LEC is required to facilitate the implementation of such arrangements by delivering the high-frequency portion of the loop to the DSL competitive LEC and the low-frequency portion to the voice competitive LEC. Further, the Commission should specify that the incumbent LEC's obligation in such cases applies regardless of the entry method a voice competitive LEC has chosen (facilities-based, unbundled elements, or resale). Absent such a requirement, incumbent LECs would be able to turn the *Line Sharing Order* on its head; customers who wished to obtain DSL service from competitive LECs via shared lines would be deprived of any choice in voice providers, a result that is clearly at odds with the Communications Act of 1934, as amended,¹⁵ and the text and goals of the *Line Sharing Order*. It is time for incumbent LECs to start competing on the merits of their product offerings and not by imposing artificial restrictions that prevent customers from choosing the carriers they wish for voice and advanced services over shared lines.

III. THE COMMISSION SHOULD REJECT REQUESTS BY INCUMBENT LECS FOR CHANGES TO ITS LINE SHARING ORDER THAT WOULD HAMPER OR DELAY THE DEPLOYMENT OF ADVANCED SERVICES BY COMPETITIVE LECS

Some incumbent LECs seek changes to various aspects of the *Line Sharing Order* that have a common characteristic: the modifications would hinder or slow unnecessarily the competitive deployment of advanced services. For the reasons set forth below, the Commission should reject these requests.

A. BellSouth Petition

Under the rules adopted in the *Line Sharing Order*, “[a]n advanced services loop technology is presumed acceptable for deployment ... where the technology ... (3) has been

¹⁵ 47 U.S.C. § 151, *et seq.*

successfully deployed by any carrier without significantly degrading the performance of other services.”¹⁶ In order to establish that a technology falls within this presumption of acceptability, “the burden is on the requesting carrier to demonstrate to the state commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.”¹⁷ Once a carrier has made such a successful demonstration, the technology is “presumed acceptable for deployment in other areas.”¹⁸

BellSouth contends that the Commission should modify this rule to require state-by-state approval, even after a technology has been introduced successfully elsewhere.¹⁹ BellSouth asserts that “[w]ithout doubt, some new technologies will work on one incumbent LEC’s network but will degrade the services on another incumbent LEC’s network.”²⁰ The Commission specifically addressed this argument when it adopted the current rule:

We conclude that a competing carrier’s use of the calculation-based method for demonstrating spectrum compatibility, as a prelude in most cases to initial deployment of a technology, should go far towards allaying the concerns of some commenters over risks of interference to the network from the deployment of a technology that was successfully deployed elsewhere.²¹

¹⁶ *Line Sharing Order* at B-5 (adding new § 51.230(a)(3). *See also id.* at ¶ 195 (codifying transitional rules adopted in the First Report and Order in CC Docket No. 98-147); Deployment of Wireline Services Offering Advanced Telecommunications Capability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-147, 14 FCC Rcd 4761(1999) at 4796-97.

¹⁷ *Line Sharing Order* at App. B-3 (adding new § 51.230(c)).

¹⁸ *Id.*

¹⁹ BellSouth at 1.

²⁰ BellSouth at 3.

²¹ *Line Sharing Order* at ¶ 198.

BellSouth does not even attempt in its petition to explain why this safeguard is inadequate to ensure the integrity of an incumbent LEC's network. Further, it does not offer one concrete example of a technology that would be compatible with certain network architectures, but would cause significant interference to other architectures.

BellSouth further contends that the rule “essentially allows any state commission the opportunity to sanction the approval of new technologies on a national level.”²² This is simply not true. The Commission's approach strikes an appropriate balance between promoting the efficient deployment of innovative technologies and avoiding unnecessary risks of significant interference to other advanced as well as traditional services. Specifically, the rule establishes a presumption that after a carrier has shown that a technology will not cause significant interference in one state, the technology is acceptable for deployment in other areas. That presumption may be rebutted by the incumbent LEC in any state in which it can produce evidence demonstrating that the technology in fact will degrade the performance of other services. Under BellSouth's approach, competitive LECs would be forced to undertake potentially costly, time-consuming and repetitive proceedings in 50 different states in order to deploy an innovative technology. That approach would clearly benefit an incumbent monopolist that wishes to delay competitive entry, but is obviously patently inconsistent with the Commission's objectives of promoting both the deployment of new technologies as well as competition among providers of advanced services.²³

²² BellSouth at 2.

²³ See, e.g., *Line Sharing Order* at ¶ 4.

In sum, BellSouth has not offered any facts or arguments not previously considered by the Commission.²⁴ Consequently, the Commission should summarily reject the petition.

B. Bell Atlantic Petition

1. Loop Testing

The *Line Sharing Order* requires incumbent LECs to permit competitive LECs to perform tests across the whole frequency range of a shared loop.²⁵ As the Commission observed, "[t]he ability to perform this type of loop testing is important for installation, maintenance, and repair activities in both shared and non-shared line situations."²⁶ Bell Atlantic, however, claims that the order does not require it to provide access to the entire loop for testing and, in any event, such access is not needed by a competitive LEC that uses only the higher frequency portion of the loop.²⁷ Thus, Bell Atlantic asks the Commission to clarify the *Line Sharing Order* to eliminate a competitive LEC's access to the entire loop for testing.

The gravamen of Bell Atlantic's argument is that competitive LECs do not need access to the lower frequency portion of a shared loop for testing because "they have purchased and are only responsible for the provisioning of their data service over the higher frequency portion of the loop -- not for maintaining the entire physical loop facility."²⁸ In fact, competitive LECs need access to the entire loop to accomplish a variety of essential tasks. For example, a competitive LEC requires access to the entire loop in order to detect and locate bridge taps and

²⁴ See 47 C.F.R. 1.429(b).

²⁵ *Line Sharing Order* at ¶¶ 113, 118.

²⁶ *Line Sharing Order* at ¶ 113.

²⁷ Bell Atlantic at 3-4.

²⁸ Bell Atlantic at 4.

load coils. The ability to detect these facilities, even after provisioning, is necessary in order to identify provisioning problems, ensure that the incumbent LECs have performed conditioning for which they have been compensated, and isolate the source of problems on a service or loop. Test access to the whole loop is also required to obtain the electrical signature needed to recognize of modems, phones and microfilters on a loop. The ability to identify such customer premises devices is an important tool in penetrating mass markets, because it enables NorthPoint to provide very helpful assistance to customers that install their own DSL equipment and, more generally, to perform various customer service functions. Full loop tests also are required for a variety of trouble isolation and continuity checking functions and to monitor lines for troubleshooting noise problems. The *Line Sharing Order* specifically contemplates that incumbent LECs and competitive LECs will be able to detect and resolve cross-talk problems on a mutually-acceptable basis.²⁹ Depriving competitive LECs access to the entire loop for testing would make it impossible to determine when other services in a binder are impeding the delivery of broadband services.

Absent access to the entire loop, a competitive LEC would not be able to offer and maintain advanced services over a shared line with the same reliability and timeliness that an incumbent LEC can provide in offering its service. The Commission should reject this proposal to tilt the competitive playing field in favor of incumbent LECs and deny Bell Atlantic's request for reconsideration of this aspect of the *Line Sharing Order*.³⁰

²⁹ *Line Sharing Order* at ¶ 205.

³⁰ In affirming a competitive LEC's right to access to the whole loop for testing purposes, NorthPoint urges the Commission to specify that this is but *one option* in a menu of options that incumbent LECs should make available to competitive LECs for ensuring quality of service. For example, Bell Atlantic has announced that it will, among options, provide DSL competitive LECs with access to mechanical loop testing (MLT) functionality in the switch. This is less a

2. *Lengthier Loops*

Bell Atlantic also asks the Commission to reconsider its decision to require incumbent LECs to demonstrate that conditioning loops over 18,000 feet will significantly degrade voice service provided over the same line.³¹ Bell Atlantic asserts that it is “obvious” that coils and repeaters are needed on loops of such lengths in order to maintain acceptable voice service.

As a general matter, NorthPoint does not oppose, on an appropriate showing, a revision to the *Line Sharing Order* that would permit a shift of the burden, from an incumbent to a competitive LEC, of demonstrating that conditioning is appropriate or that would allow an incumbent LEC to leave load coils and repeaters on loops that exceed 18,000 feet in length. Bell Atlantic, however, has made no such demonstration in this case. Bell Atlantic’s petition includes no technical demonstration regarding the resistance design criteria applicable to long loops, no empirical data regarding the distribution of long loops in its plant, and no data about the incidence of repeaters, load coils or other interferers on long and short loops in its territory.

Moreover, Bell Atlantic’s petition fails even to specify how it would determine the loops that exceed 18,000 feet in length. Some carriers – including Bell Atlantic – include in loop length measurements not only the distance between the central office and a subscriber’s

costly and in many cases a more appropriate testing methodology that should not be discouraged nor precluded by the Commission. Rather, in rejecting Bell Atlantic’s petition to *eliminate* the whole-loop test access option, the Commission should clarify that this is, and remains, one of the viable options that competitive LECs may select and each should be included in interconnection arrangements for line sharing.

³¹ Bell Atlantic at 6. Bell Atlantic suggests in its petition that such demonstrations must be made by an incumbent LEC on a “state-by-state” basis. In NorthPoint’s view, the *Line Sharing Order* clearly indicates that such showings must be made on a case-by-case basis. *See Line Sharing Order* at ¶ 86 (“We will require that the incumbent refusing a competitive carrier’s request to condition a loop make an affirmative showing to the relevant state commission that conditioning *the specific loop in question* will significantly degrade voiceband services.”)(*emphasis added*).

premises, but also any additional bridged tap. As a result, if an incumbent LEC were given broad discretion in determining the loops that are deemed to exceed 18,000 feet in length, it may refuse to remove unneeded, but destructive repeaters or other conditioning on loops that serve customers on as little as 12,000 feet of twisted-pair. That result that would cast millions of subscribers out of the broadband net while neither enhancing nor preserving voice service for customers served by lengthy loops. Prior to ruling on this Bell Atlantic's request for a change in the line sharing order, NorthPoint recommends that the Commission seek further information from Bell Atlantic concerning the technical and engineering basis of its claim as well as the rules, procedures, and limits that an incumbent LEC would be required to follow in administering this limitation. Until the Commission compiles and analyzes such information in a public proceeding, the *Line Sharing Order*'s requirement that an incumbent LEC has the burden of showing that line conditioning would significantly degrade voice service provided over the same line should not be modified.

3. Deployment Schedule

Bell Atlantic also seeks modification of the Commission's requirement that incumbent LECs implement line sharing with unaffiliated competitive LECs within 180 days after release of the order. Specifically, Bell Atlantic contends that industry members, "working together in a collaborative process," should be permitted to adopt "a phased in, industry-agreed upon deployment schedule for line sharing"³² Bell Atlantic's proposal apparently is limited to circumstances in which incumbent and competitive LECs are participating in a joint effort to develop methods and procedures for implementing line sharing, an effort that is to some degree

³² Bell Atlantic at 8.

under the supervision of a state regulatory commission or staff. Bell Atlantic's proposal also would appear to apply only in those cases where there is unanimous consent among the industry participants to adopt a different deployment schedule.

The Commission will have an ample opportunity to assess whether there is unanimous support for Bell Atlantic's proposal simply by reviewing the record established in the instant proceeding with respect to this issue. If all of the commenting parties (both competitive LECs and incumbent LECs) support the proposal, the Commission could grant Bell Atlantic's request, provided it is limited to the circumstances described in the foregoing paragraph. If, however, commenting parties oppose Bell Atlantic's proposal, the record would show that the proposal lacks consensus support and should be denied.

4. Treatment of Older, Interfering Technologies

Bell Atlantic objects to the Commission's decision to permit state commissions to segregate or sunset older technologies that the Commission has identified as having a high potential for causing interference.³³ Bell Atlantic claims that decisions on when and how an incumbent carrier upgrades its network or removes equipment from service should be driven by "market forces."³⁴ In addition, Bell Atlantic asserts that the Commission's decision is inconsistent with well-established Commission precedent.³⁵

Reliance on marketplace forces to influence a carrier's decisions on modifications to its network would make sense if the carrier faced a competitive market. This case, however, concerns a monopolist that controls the facility that can cause interference with services provided

³³ *Line Sharing Order* at ¶ 218.

³⁴ Bell Atlantic at 9.

³⁵ Bell Atlantic at 9-10.

by new entrants into its market. As a consequence, an incumbent LEC could block through its schedule for retiring the interference-causing equipment the deployment of innovative services and technologies (with which it currently may not be able to compete). In these circumstances, the "market" incentive of the incumbent LEC would be to delay removal of the interfering technology until it can develop and deploy competitive services or, failing that, as long as possible.

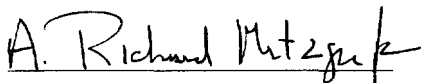
The Commission's decision to permit state commissions to order the sunseting of certain technologies represents a narrow and necessary exception to the general "first-in-time" principle. As the Commission noted, "placing disposition of known disturbers in the hands of the states, who are best equipped to assess the impact of such disturbers on specific areas, strikes the appropriate balance between the 'competing goals of maximizing noninterference between technologies and not interfering with subscribers' existing services.'"³⁶ Bell Atlantic's requested modification, in contrast, would place the disposition of the interference-causing equipment in the hands of the party that only would be concerned about the effect of the interference on its existing subscribers. The Commission should reject this transparent attempt to hamper the efforts of competitive LECs to offer advanced services.

³⁶ *Line Sharing Order* at ¶ 219 (citing *Advanced Services First Report and Order*, 14 FCC Rcd at 4804, n.199) (footnotes omitted).

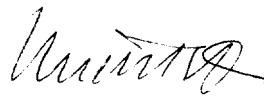
IV. CONCLUSION

For the foregoing reasons, the Commission should grant the requests of AT&T and MCI for clarification (or, alternatively, reconsideration) and deny the requests of incumbent LECs for reconsideration of the *Line Sharing Order*.

RESPECTFULLY SUBMITTED,



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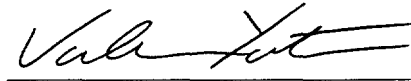


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DATED: March 22, 2000

CERTIFICATE OF SERVICE

I, Valerie Yates, do hereby certify that on this day of March 22, 2000, I caused a copy of the foregoing Comments of NorthPoint Communications, Inc. to be served upon each of the parties listed on the attached Service List.



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